

Section 810 - Plats and Subdivisions

810.01 Purpose and Objectives. The purpose and objectives of this Section are to provide for the orderly, economic and safe development of land and urban services and facilities; to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds and other public services and facilities; to promote the public health, safety and general welfare by establishing physical standards, design requirements and procedures for plats and subdivisions of land; to allow flexibility in design of plats and subdivisions; to develop a consistency with and to help implement the zoning, building and other applicable sections and provisions of this Code; to support and further the City's Comprehensive Plan by establishing uniform procedures and regulations for plats and subdivisions to preserve and enhance the value and viable economic use of property; to protect the character and symmetry of neighborhoods in the City; and to protect and further, and not frustrate, legitimate investment backed expectations of property owners.

810.02 Definitions; Zoning Ordinance; Construction Rules; Severability.

Subd. 1 **Definitions.** Unless the context clearly indicates otherwise, the following words, terms and phrases, shall have the stated meanings:

Applicant. All persons, whether one or more, who request approval by the City of a plat, subdivision or lot division pursuant to this Section.

Commission. The Planning Commission of the City.

Comprehensive Plan. The Comprehensive Plan of the City containing the elements set within M.S. 462.352, Subd. 5, adopted by the City in 1980, pursuant to applicable Minnesota Statutes, as now or hereafter amended or modified, and including any similar plan or plans as may supersede or be substituted for the Comprehensive Plan. The Comprehensive Plan is incorporated into this Section by this reference as completely as if fully set out.

Median. The value (being, in this Section, lot area, lot depth or lot width, as the case may be) in an ordered set of such values below which and above which there is an equal number of such values, or which is the arithmetic mean of the two middle values if there is no one such middle value.

Neighborhood. All lots in the Single Dwelling Unit District as established by Section 850 of this Code which are wholly or partially within 500 feet of the perimeter of the proposed plat or subdivision, except:

- A. Lots used for publicly owned parks, playgrounds, athletic facilities and golf courses;
- B. Lots used for conditional uses as established by Section 850 of this Code; or
- C. Lots separated from the proposed plat or subdivision by the right of way of either T.H. 100 or T.H. 62.

If the neighborhood includes only a part of a lot, then the whole of that lot shall be included in the neighborhood. As to streets on the perimeter of the proposed plat or subdivision, the 500 feet shall be measured from the common line of the street and the proposed plat or subdivision.

Of Record. Recorded in the office of the County Recorder, Hennepin County, Minnesota, or filed in the Office of the Registrar of Titles, Hennepin County, Minnesota, whichever is the appropriate office to give constructive notice of the document of record.

Outlot. An area, parcel, tract or lot of land shown on a plat or subdivision as an outlot.

Parcel, Tract or Lot. The definitions in Section 850 of this Code for parcel, tract, and lot are incorporated into this Section by reference.

Plat. The map of one or more subdivisions prepared for filing of record pursuant to, and containing all elements and requirements in M.S. 505 and containing all of the elements and requirements for a subdivision set forth in this Section, to the extent such requirements and elements were not waived pursuant to such statute or this Section, or containing all of the elements and requirements imposed by, and not waived pursuant to, the Statutes and Sections of this Code which were applicable when such map was prepared for filing of record.

Subdivision. The separation of an area of land, of a parcel, tract or lot into two or more parcels, tracts or lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads or alleys, for residential, commercial, industrial or other use, or any combination, except the following separations:

- A. Where all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet or wider in width for residential uses and five acres or larger in size and 300 feet or wider in width for commercial and industrial uses;
- B. Creating cemetery lots; or
- C. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

For the purposes of this Section, a subdivision shall include Registered Land Surveys and Auditor's Subdivisions.

Subd. 2 **Zoning Ordinance Incorporated.** Section 850 of this Code, (the Zoning Ordinance) and all amendments, modifications and supplements made to, and all Sections hereafter adopted by the Council as successors to said Section 850 are incorporated into this Section by this reference as completely as if fully set out and the provisions of this

Section and Section 850 shall be read and interpreted so as to result in a uniform and consistent application to all property. However, the provisions of Subsection 810.05 relating to variances from the provisions of this Section shall apply over any similar provisions in Section 850 of this Code.

Subd. 3 **Construction Rules.** The rules of construction set out in Subsection 850.03 of this Code are incorporated into this Section by reference.

810.03 Plat Required.

Subd. 1. **Compliance in Platting.** Every subdivision, except as provided in Subsection 810.04 shall be platted in full compliance with M.S. 505, this Section, Section 850 of this Code and the Comprehensive Plan.

Subd. 2 **Platting for Transferring Land.** Any land transferred from one zoning district to another zoning district, excluding, however, transfers to or from the Heritage Preservation Overlay District or the Flood Plain Overlay District, as defined in Section 850 of this Code, shall be platted in full compliance with M.S. 505, this Section, Section 850 of this Code and the Comprehensive Plan, in connection with, at the time of, and as a condition to, such transfer.

Subd. 3 **Parcels.** The provisions of this Section shall apply also to parcels taken from a parcel, tract or lot then existing of record by use of a metes and bounds description, and such subdivisions shall be platted in full compliance with M.S. 505, this Section, Section 850 of this Code and the Comprehensive Plan.

810.04 Plat Not Required.

Subd. 1 **Double Dwelling Units.** As provided in Subd. 1 of this Subsection 810.08, no plat shall be required for subdivisions of lots in Double Dwelling Unit Districts but only a lot division pursuant to Subd. 2 of this Subsection 810.04 shall be required.

Subd. 2 **Lot Divisions.** No plat shall be required for any lot division which adjusts or relocates a common lot line separating two lots and which does not create a new undeveloped parcel, tract or lot that complies, alone or in combination with one or more other parcels, tracts or lots, with the applicable minimum lot area and other requirements of this Section and Section 850 of this Code. However, before any lot division shall be made or any conveyance resulting from the lot division is placed of record, the Council shall adopt a resolution approving the same, and the procedure shall be the same as for preliminary plat approval as set out in Subsection 810.10 except that (i) notice of the hearing before the Council need not be published, (ii) no sign need be erected, and (iii) only a survey prepared and signed by a Minnesota registered land surveyor showing the proposed lot division need be filed with the Planner together with the required fee and such additional information that, in the opinion of the Planner, is necessary for evaluation of the lot division and determination that it is consistent with the requirements of this Section.

810.05 Variances.

Subd. 1 **Grant by Council.** In connection with the preliminary or final approval of a plat or subdivision the Council may grant variances from the provisions of this Section. The Council shall grant variances only upon finding that an unusual hardship exists as to the land within the plat or subdivision, and specifically that:

- A. The hardship is not a mere inconvenience;
- B. The hardship is due to the particular physical surroundings, shape or topographical condition of the land;
- C. The condition or conditions upon which the request for a variance is based are unique to the property being platted or subdivided and not generally applicable to other property;
- D. The hardship is caused by this Section and not by the applicant;
- E. The variance will result in an improved plat or subdivision; and
- F. The variance, if granted, will not alter the essential character of the land within the plat or subdivision or in the neighborhood.

A grant of a variance by the Council shall be deemed to include a favorable finding on each of the variance grounds set out above even if not specifically set out in the approval resolution or the minutes of the Council meeting.

Subd. 2 **Conditions.** In granting a variance the Council may impose conditions to ensure compliance with the purpose and objectives of this Section and other applicable provisions of this Code and to protect adjacent properties. The conditions may be made a part of any Development Contract required by Subsection 810.12.

810.06 Denial of Permits. A building permit or other permit for the development or improvement of any parcel, tract, or lot may be denied for any of the reasons set out in this Subsection:

Subd. 1 **Violations of M.S. 462.** If the parcel, tract or lot is conveyed in violation of the provisions of M.S. 462.

Subd. 2 **Non-Compliance.** If the parcel, tract or lot is within any plat or subdivision made after adoption of this Section which does not comply with the requirements of this Section and was not approved by the Council pursuant to this Section.

Subd. 3 **Filing.** If the parcel, tract or lot is in any plat made after adoption of this Section which has not been filed and a certified copy delivered to the Planner as required by Subd. 4 of Subsection 810.10.

Subd. 4 **Outlot.** If the parcel, tract or lot is an outlot.

810.07 Outlots. It is the policy of the City to allow outlots on plats and subdivisions presented to the City for approval pursuant to this Section, but only for the purpose of simplifying the descriptions of parcels of land (i) that would otherwise be excepted from the platted area, or (ii) that are to be conveyed or dedicated to the City or other public body. Therefore, any outlots shown on a plat or subdivision approved by the Council shall not be, nor be deemed to be, lots or parcels as defined in Section 850 of this Code, nor shall any outlots be developed by the erection or placing of improvements on the outlots, unless first replatted into lots and blocks pursuant to this Section and the applicable provisions of State Law. Except, however, improvements may be erected or placed by the City or other public body upon outlots conveyed or dedicated to it.

810.08 Double Dwelling Unit District (R-2) and Townhouse Plats.

Subd. 1 **Double Dwelling Units.** Any lot in the Double Dwelling Unit District as then determined by Section 850 of this Code may be subdivided into two lots notwithstanding the regulations stated in Section 850 of this Code which apply to the Single Dwelling Unit District. Provided, that as a condition to the approval of the subdivision the owner or owners of the lot to be subdivided shall make a separate and independent connection of each dwelling unit on the lot to be subdivided with the public sanitary sewer and water mains, as required by Section 445 of this Code.

Subd. 2 **Townhouse Plats.** As conditions to the approval of any townhouse plat, as defined in the Section 850 of this Code, of previously built and then existing townhouses, as defined in Section 850 of this Code, each townhouse shall be separately and independently connected to the sanitary sewer and water mains as required by Section 445 of this Code.

810.09 Application; Fees; Charges; Application Requirements.

Subd. 1 **Filing with the Planner.** All applications for plats and subdivisions and all lot divisions pursuant to Subd. 2 of Subsection 810.04 presented for approval by the Commission and Council shall be filed with the Planner on forms prescribed by the Planner and shall be accompanied by a fee in the amount set forth in Section 185 of this Code. The fee shall not be refunded for any reason including without limitation, rejection of the plat, subdivision or lot division by the Council, or abandonment or withdrawal of the proposed plat, subdivision or lot division by the applicant. The City shall have no duty to process or act on any plat, subdivision or lot division unless and until the applicable fee has been paid to the City. Also, no application shall be complete until all information and documents required by this Subsection have been filed with the Planner.

Subd. 2 **Additional Fees.** Each person, by filing or submitting an application for approval by the City of a proposed plat, subdivision or lot division, shall have agreed to pay all administrative expenses and attorneys' fees, with interest and costs as provided in this Subd. 2, incurred by the City in connection with or as a result of reviewing and acting on such application. If more than one person signs an application, all signers shall be jointly and severally liable for such expenses and fees, with interest and costs as provided. The expenses and fees to be paid to the City pursuant to this Subd. 2 shall be payable upon demand made by the City, and if not paid within five days after the demand is made,

shall bear interest from the date of demand until paid at a rate equal to the lesser of the highest interest rate allowed by law or two percentage points in excess of the reference rate. The applicants shall also pay all costs, including attorneys' fees, incurred by the City in collecting the expenses, fees and interest, with interest on such costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees. For purposes of this Section, reference rate shall mean the rate publicly announced from time to time by First Edina National Bank, or any successor, as its reference rate, and if the bank, or its successor, ceases publicly announcing its reference rate, reference rate shall mean the interest rate charged from time to time by such bank or its successor on 90-day unsecured business loans to its most creditworthy customers.

Subd. 3 Additional Requirements.

A. There shall be delivered with each application a written instrument from each utility company showing that arrangements acceptable to the Planner have been made with the utility company for the installation of utilities in the manner required by this Section and other applicable sections of this Code.

B. The applicant shall erect, or cause to be erected, a sign or signs as required by paragraph B. of Subd. 2 of Subsection 850.04 of this Code, except that the information contained shall be as follows:

C. "This property proposed for subdivision by:
(Names of Applicants)
(Telephone Numbers of Applicants)

D. For information contact Edina Planning Department,
Telephone No. 927-8861".

E. The applicant shall also give mailed notice to the owners of all lots in the neighborhood of the proposed plat or subdivision, as such owners and their addresses shall be shown on a list prepared by the City, and for a fee established pursuant to Section 185 of this Code. The notice shall be on a form prescribed by the Planner, but, at a minimum, shall advise of the proposed plat or subdivision, the number of lots to be created, and the address and phone number of the applicant.

F. The sign or signs required by paragraph B. of this Subd. 3 at all times shall be kept in good repair and shall be maintained in place until a final decision on the application has been made by the Council, and shall be removed by the applicant within five days after the final decision. If the signs are not kept in good repair or removed as required, then such signs shall be deemed a nuisance and may be abated by the City by proceedings under M.S. 429, and the cost of abatement, including administrative expenses, may be levied as a special assessment against the property upon which the sign is located, or the applicant may be prosecuted for violation of this Section, and if convicted shall be guilty of a misdemeanor and subject to penalties pursuant to Section 100 of this Code. If there is more than one applicant, they shall be jointly and severally liable.

G. The applicant shall also deliver to the Planner such other information as is necessary, in the Planner's opinion, for evaluation of the application and determining consistency and compliance with the requirements of this Section and this Code.

Subd. 4 **Application Data.** The applicant shall file with the application the following information which is required for all proposed plats and subdivisions, and which shall be shown on the proposed plat or subdivision or other accompanying document:

- A. The proposed name of the proposed plat or subdivision.
- B. The name, address and telephone number of each owner, each agent of any owner, each applicant, the surveyor and the designer of the proposed plat or subdivision.
- C. A graphic scale (no smaller than 1" = 50'), the north point and the date of preparation of the proposed plat or subdivision.
- D. The plat or subdivision, and the perimeter lines of each lot, with bearings and distances.
- E. The lot and block numbers.
- F. The lot width, lot depth, and lot area, as defined by Section 850 of this Code, of each proposed lot and outlot.
- G. The total area, area in lots, area in streets and other public uses, by square footage.
- H. The legal description of the tract to be platted, together with its PIN numbers(s).
- I. The existing zoning classification(s) of the property.
- J. Location and size of any proposed outlots, and a conceptual plan (graphically and in writing) for future development.
- K. All existing public roads and rights-of-way serving the property, including the grade, width, legally established centerline elevation, and the location and elevation of sidewalks.
- L. All proposed public roads and rights-of-way.
- M. Existing easement locations, widths and purposes, and showing invert elevation of sewers.
- N. Proposed easement locations, widths and purposes.

O. Location of existing and proposed utilities, including distance to nearest utilities not on or adjoining the property, and showing the invert elevation of sewers.

P. Existing elevations and contours at two foot intervals and a preliminary grading plan showing resulting elevations and contours at two foot intervals.

Q. Minimum front, rear and side setbacks for the proposed improvements on the proposed lots.

R. Location of all wetlands, streams, ponds or lakes within or flowing through the property proposed to be platted or subdivided with normal high water and 100 year frequency flood elevation.

S. Location of all proposed parks, drainage facilities and area proposed to be dedicated for public use.

T. Ground elevation of land within 100 feet of the perimeter property lines of the area proposed to be platted or subdivided, showing contour lines at two foot intervals.

U. If the land proposed to be platted or subdivided is within the floodplain in whole or in part as determined by Section 850 of this Code, then there shall be shown the location and elevation of the floodplain, the elevation of each building site on each lot within the floodplain, the elevations of the road access to the plat or subdivision and to each building site within the flood plain, and such other information as is required to evidence compliance with Subsection 850.21 of this Code.

V. The land area, by total square footage and as a percentage of all land in the proposed plat or subdivision, to be disturbed in the subdivision by public and private improvements, and the location of such disturbed areas.

W. The location and elevation of all existing improvements on the land in the proposed plat or subdivision and a statement as to whether they will remain or be removed.

X. A graphic illustrating the then existing topography for all lots in the proposed plat or subdivision and showing the location of all areas with slopes of greater than 18 percent, and the percentage of such areas relative to the total area in the proposed plat or subdivision, and the percentage of each lot having slopes of 18 percent or greater.

Y. The number and location of overstory trees then existing on the property proposed to be disturbed by public or private improvements, having a diameter of six inches or more as to deciduous trees, and having a height of six feet or more as to coniferous trees.

Subd. 5 Additional Requirements for Platting or Subdivision of Property in the Single Dwelling Unit District. In addition to the requirements of Subd. 4 of this Subsection, the applicant for a proposed plat or subdivision of land wholly or partially within the Single Dwelling Unit District as then determined by Section 850 of this Code, shall also deliver to the Planner the following information from a source acceptable to the Planner:

A. A complete list of all lots which are within the neighborhood of the property proposed to be platted or subdivided with the following information:

1. The lot area for each lot;
2. The mean and median lot area (in square feet) of all lots;
3. The lot width, as defined by Section 850 of this Code, for each lot;
4. The mean and median lot width, as defined by Section 850 of this Code, of all lots;
5. The lot depth, as defined by the Section 850 of this Code, for each lot;
6. The mean and median lot depth, as defined by Section 850 of this Code, of all lots; and
7. The name and address of the owner of each lot.

B. The location of the proposed building pad for each lot in the proposed plat or subdivision.

C. The lot width to perimeter ratio (as defined in Section 850 of this Code) for each lot in the proposed plat or subdivision.

810.10 Review and Approval Process.

Subd. 1 Hearing and Decision by Commission.

A. Upon receipt by the Planner of the application and all other documents and information required pursuant to Subsection 810.09 and determination by the Planner that the required mailed notice has been given and the required signs have been erected for not less than ten days prior to the Commission hearing, the Planner shall review the application, prepare a report and forward the report to the Commission.

B. Upon receipt of the report of the Planner, the Commission shall conduct a hearing which shall be not less than ten days after said required notice has been given and said required signs have been erected. After hearing the oral and written views of all persons, the Commission shall make its recommendation at

the same or at a specified future meeting. In making its recommendation, the Commission shall be guided by and subject to the provisions of Subsection 810.11. Also, if the provisions of Subd. 2 of Subsection 810.13 apply, the Commission shall recommend the dedication or easement option as provided in said subdivision.

Subd. 2 Public Hearing by Council - Preliminary Approval.

A. Upon request of the Planner or applicant, and after the Commission has examined and considered the proposed plat, subdivision or lot division (and even if the Commission has failed to make a recommendation to the Council), the Council shall set a date for hearing, which shall be not later than 60 days after the meeting at which the hearing date is set. A notice of the date, time, place and purpose of the hearing shall be published once in the official newspaper not less than ten days before the date of the hearing; provided, however, that no published notice need be made for lot divisions pursuant to Subd. 2 of Subsection 810.04. Notice of the hearing shall be mailed not less than ten days before the date of the hearing to each owner of property situated wholly or partially within 500 feet of the property proposed to be subdivided insofar as the names and addresses of such owners can be reasonably determined by the Clerk from records maintained by the Assessor; provided, however, that no mailed notice need be made for lot divisions pursuant to Subd. 2 of Subsection 810.04. After hearing the oral or written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting. In making its decision, the Council shall be guided by and subject to the provisions of Subsection 810.11. Also, if the provisions of Subd. 2 of Subsection 810.13 apply, the Council shall select its option as provided in said subdivision. The Council may by resolution:

1. Grant preliminary approval, with or without modification, and without conditions, or with such conditions reasonably related to the purpose and objectives of this Section as the Council may deem necessary or desirable; or
2. Grant preliminary and final approval at the same time, with or without modification, and without conditions, or with such conditions reasonably related to the purpose and objectives of this Section as the Council may deem necessary or desirable; or
3. Refer the plat, subdivision or lot division to the Commission or other appropriate City commissions, officers or departments for further investigation and report to the Council at a specified future meeting; or
4. Reject the plat, subdivision or lot division.

B. The Council shall either grant preliminary approval or reject the proposed plat or subdivision within 120 days of the receipt by the Planner of an application completed in compliance with this Subsection 810.09 unless applicant agrees to an extension of the review period.

C. The grant of preliminary and final approval by the Council shall be deemed to include a favorable finding on all required matters as set out in this Section even if not specifically set out in the approval resolution or the minutes of the Council meeting.

Subd. 3 Final Approval.

A. When a plat or subdivision has been given preliminary approval, the Planner shall submit a supplementary report to the Council recommending final approval upon receipt by the Planner of the following:

1. A written request from the applicant for final approval;
2. Evidence and documents satisfactory to the Planner meeting and complying with the conditions and modifications imposed by the Council at the time of granting preliminary approval;
3. Two mylar or linen reproducible tracings and copies of the final plat complying with the requirements of this Section, the preliminary approval granted by the Council, and M.S. 505, together with evidence that the final plat has been received and approved by the County surveyor's office;
4. The Developer's Agreement and Development Contract fully executed by the applicant and the City, and the security, as required by Subsection 810.12;
5. A letter or other signed document from each utility company agreeing to comply with Subsection 810.14 of this Section;
6. Evidence acceptable to the Planner evidencing ownership of, and encumbrances on, the property proposed to be platted or subdivided, including, without limitation, a written opinion from the applicant's counsel addressed to the City opining that all documents executed by the applicant and delivered to the City have been duly executed and delivered, have been duly authorized by all necessary corporate, partnership or other entity action, are binding on the signing parties and enforceable in accordance with their terms, and containing such additional statements as the Planner may request; and
7. All fees and expenses to be paid by the applicant pursuant to Subsection 810.09, including attorney's fees incurred by the City.

Provided, however, if any one or more of the foregoing items is not received by the Planner, the Planner may yet submit a supplemental report to the Council, and the Council may condition its final approval upon the receipt by the Planner of those items not then so received, as well as other matters reasonably related to the purpose and objectives of this Section.

B. Upon receipt of the supplementary report of the Planner, the Council shall act thereon, which action shall be by resolution. Such resolution shall be passed within 60 days of receipt of such supplemental report of the Planner. Final approval may be conditioned as provided in paragraph A. of this Subd. 3 and may also be conditioned upon receipt of the land dedication or cash contribution required pursuant to Subsection 810.13 and upon compliance with any conditions and modifications imposed at the time of preliminary approval and not yet met or fulfilled. If the Council imposes conditions in any grant of final approval, then the officers of the City shall not sign such plat, nor shall the Clerk issue any certified copy of the resolution of the Council giving such final approval, until such conditions are met and complied with. The Clerk is authorized, once such conditions have been met and complied with, to issue a certified copy of the resolution of the Council giving such final approval, without reference to such conditions.

C. If the supplementary report of the Planner is not submitted to the Council by the first anniversary date of the Council resolution granting preliminary approval, the plat or subdivision shall be deemed abandoned and withdrawn and of no effect, and a new application shall be filed and the plat or subdivision again submitted for review and action pursuant to this Section.

Subd. 4 Filing of Plat; Certified Copy of Approving Resolution.

A. The applicant shall file of record the final plat, at applicant's expense, as soon as possible after receipt by applicant of a certified copy of the Council resolution giving final approval of the plat. Said plat shall not be filed of record, nor accepted of record, unless said certified copy of the Council resolution giving such final approval accompanies such plat when presented for filing of record. A certified copy of such filed plat with the recording data shall be filed with the Planner.

B. If the plat is not filed of record and a certified copy filed with the Planner by the first anniversary date of the Council resolution giving such final approval (even if such final approval is conditional on performance of further acts by applicant or others), the plat or subdivision shall be deemed abandoned and withdrawn and of no effect, and a new application shall be filed and the plat or subdivision again submitted for review and action pursuant to this Section.

C. If the approved plat is of land contiguous to another municipality, the Clerk shall also file a copy of such resolution with the governing body of such municipality.

D. The Clerk shall not give a certified copy of the resolution approving the plat or subdivision for a double dwelling unit or a townhouse development until the requirements of Subsection 810.08 have been fulfilled.

E. The Clerk shall not give a certified copy of the resolution approving any plat or subdivision or lot division until all fees, interest and costs are paid to the City pursuant to Subsection 810.09.

810.11 Guidelines and Criteria for Evaluating Plats and Subdivisions.

Subd. 1 **Considerations.** The Commission in reviewing proposed plats and subdivisions and in determining its recommendation to the Council, and the Council in determining whether to approve or disapprove of any plat or subdivision, may consider, among other matters, the following:

A. The impact of the proposed plat or subdivision, and proposed development, on the character and symmetry of the neighborhood as evidenced and indicated by, but not limited to, the following matters:

1. The suitability of the size and shape of the lots in the proposed plat or subdivision relative to the size and shape of lots in the neighborhood; and
2. The compatibility of the size, shape, location and arrangement of the lots in the proposed plat or subdivision with the proposed density and intended use of the site and the density and use of lots in the neighborhood.

B. The impact of the proposed plat or subdivision, and proposed development, on the environment, including but not limited to, topography, steep slopes, vegetation, naturally occurring lakes, ponds and streams, susceptibility of the site to erosion and sedimentation, susceptibility of the site to flooding and water storage needs on and from the site.

C. The consistency of the proposed plat or subdivision, and proposed development, and compliance by the proposed plat or subdivision, and the proposed development, with the policies, objectives, and goals of the Comprehensive Plan.

D. The compliance of the proposed plat or subdivision, and the proposed development with the policies, objectives, goals and requirements of Section 850 of this Code including, without limitation, the lot size provisions and the Floodplain Overlay District provisions of Section 850 of this Code.

E. The impact of the proposed plat or subdivision, and proposed development on the health, safety and general welfare of the public.

F. The relationship of the design of the site, or the improvements proposed and the conflict of such design or improvements, with any easements of record or on the ground.

G. The relationship of lots in the proposed plat or subdivision to existing streets and the adequacy and safety of ingress to and egress from such lots from and to existing streets.

H. The adequacy of streets in the proposed plat or subdivision, and the conformity with existing and planned streets and highways in surrounding areas. Streets in the proposed plat or subdivision shall be deemed inadequate if designed or located so as to prevent or deny public street access to adjoining properties, it being the policy of the City to avoid landlocked tracts, parcels or lots.

I. The suitability of street grades in relation to the grades of lots and existing or future extension of the City's water, storm and sanitary sewer systems.

J. The adequacy and availability of access by police, fire, ambulance and other life safety vehicles to all proposed improvements to be developed on the proposed plat or subdivision.

K. Whether the physical characteristics of the property, including, without limitation, topography, vegetation, susceptibility to erosion or siltation, susceptibility to flooding, use as a natural recovery and ponding area for storm water, and potential disturbance of slopes with a grade of 18 percent or more, are such that the property is not suitable for the type of development or use proposed.

L. Whether development within the proposed plat or subdivision will cause the disturbance of more than 25 percent of the total area in such plat or subdivision containing slopes exceeding 18 percent.

M. Whether the proposed plat or subdivision, or the improvements proposed to be placed thereon are likely to cause substantial environmental damage.

Subd. 2 Lot Dimensions. If the proposed plat is wholly or partially within the Single Dwelling Unit District, then the minimum lot area, lot width, lot depth and lot width to perimeter ratio shall be as follows:

A. The minimum lot area, as defined in Section 850 of this Code, shall be the greater of 9,000 square feet, or the median lot area of lots in the neighborhood.

B. The minimum lot width, as defined in Section 850 of this Code, shall be the greater of 75 feet, or the median lot width of lots in the neighborhood.

C. The minimum lot depth, as defined in Section 850 of this Code, shall be the greater of 120 feet, or the median lot depth of lots in the neighborhood.

D. The lot width to perimeter ratio, as defined in Section 850 of this Code, for any lot in the proposed plat or subdivision shall not be less than 0.1.

Subd. 3 Additional Considerations. In addition to the foregoing matters, the Commission, in connection with its recommendation to the Council, and the Council in

determining whether to approve or disapprove a proposed plat or subdivision, shall specifically and especially consider the following matters:

- A. Whether the proposed plat or subdivision complies with the policies, objectives and goals of the Comprehensive Plan.
- B. Whether the proposed plat or subdivision complies with the policies, objectives, goals and requirements of Section 850 of this Code, including, without limitation, the lot size and dimension requirements of Section 850 of this Code, and the Flood Plain Overlay District and Heritage Preservation Overlay District of Section 850 of this Code, as varied by variances therefrom, if any, granted pursuant to this Section or Section 850 of this Code.
- C. Whether the design of the proposed plat or subdivision, or the design or type of improvements proposed to be placed thereon, may be detrimental to the health, safety or general welfare of the public.
- D. Whether the proposed plat or subdivision conforms to, and complies with the requirements of, applicable State Law.
- E. Whether the proposed plat or subdivision complies with the policies, objectives, goals and requirements of this Section, as varied by variances therefrom, if any.

810.12 Responsibility for Improvements; Subdivision Financing; Security; Development Contracts.

Subd. 1 **Developer's Agreement.** After preliminary approval has been given to a plat or subdivision, the applicant shall enter into a Developer's Agreement (herein called the "Agreement") with the City, on terms and conditions determined by the City, and shall cause all street, water, and sewer improvements required by the Planner or Engineer, or by the resolution granting preliminary or final approval, to be completed, pursuant to the Agreement and to the City's then standards and specifications for such improvements. Such Agreement (a) as to improvements to be installed by the applicant shall obligate the applicant to install and complete all such improvements, at applicant's own expense and under the supervision and inspection of the Engineer, and shall obligate the applicant to pay to the City a fee in compensation for such services in an amount equal to 6.5 percent of the total construction cost of all such improvements within 30 days after receipt of a statement, (b) as to improvements petitioned for by the applicant to be installed by the City, which City installations shall be done only in plats then situated within the Single Dwelling Unit District, the Double Dwelling Unit District and the Planned Residence District, as determined by Section 850 of this Code, shall obligate the City to provide engineering services and construct the improvements and obligate the applicant to pay to the City the cost of such services and construction through payment of special assessments, which shall be payable in not more than three annual installments, and (c) as to improvements petitioned for by the applicant to be installed and assessed in accordance with the regular policies of the City, shall provide for installation, if ordered by the Council, and assessment in accordance with the then policies of the City; provided,

however, that the City shall not be obligated to enter into such agreement (i) if the improvements required by the Planner or Engineer or by such resolution are not allocated among the methods at (a), (b) and (c) above in a manner satisfactory to the Engineer, or (ii) if the applicant as to the improvements at (a) and (b) above does not give one or more of a bond, cash in escrow or an irrevocable letter of credit, all as may be required by the Planner or Engineer, or (iii) as to any improvements, if the Council determines that the City must borrow money to pay its costs of construction under such Agreement and such borrowing will jeopardize the City's credit rating. The Agreement shall also provide, as to improvements at (b) above, that if the applicant transfers any lot or parcel in the platted or subdivided area while special assessments then levied or to be levied for the improvements made pursuant to said Agreement remain unpaid, they will be paid or prepaid in full as to such transferred lot or parcel, to the City Treasurer or the County Treasurer, at the time of such transfer.

Subd. 2 Security for Improvements.

A. Any bond required by the City shall be given by the applicant with a corporate surety authorized to do business in Minnesota and approved by the City and, as to improvements referred to at (a) of Subd. 1 of this Subsection, shall be a performance and payment bond in at least the full amount of all contracts for the installation of such improvements, and as to improvements referred to at (b) of Subd. 1 of this Subsection, shall be in the full amount of all costs of making the improvements specified in the Agreement not paid in cash by the applicant before or at the time of entering into the Agreement and shall be given for the securing to the City of the payment of the special assessments.

B. Any cash deposit required by the City shall be deposited by the applicant, in escrow, in a national or state bank having an office in the City, in the full amount of the unpaid improvement costs, together with a written agreement signed by the applicant and the bank whereby the funds in escrow will be paid to the City from time to time solely upon the written demand of the City, to the extent of any default by the applicant as to the terms of the Agreement then alleged by the City.

C. Any letter of credit required by the City shall be from a national or state bank approved by the City, shall be unconditional and irrevocable, shall be for the full amount of the unpaid improvement costs, and shall provide that funds will be paid to the City solely upon written demand from time to time of the City to the extent of any default by the applicant as to the terms of the Agreement then alleged by the City.

D. If there is more than one applicant, all shall join in the Agreement, and shall be jointly and severally obligated to perform the obligations of applicant under the Agreement.

Subd. 3 Development Contracts. When preliminary or final approval has been given to a plat or subdivision, and if modifications or conditions have been imposed in connection with such approval, the applicant shall enter into a Development Contract (herein called the "Development Contract") embodying the modifications and conditions

of approval, and containing such other terms and conditions as the City may require to impose, enforce and make effective such modifications and conditions. The Development Contract shall be placed of record if requested by the City, at the expense of applicant.

810.13 Dedication Requirements.

Subd. 1. Minnesota Statutes Section 462.358, Subd. 2b provides that municipal subdivision regulations may require that a reasonable portion of the buildable land of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash.

Subd. 2. The City Council finds that:

A. The preservation and development of parks, playgrounds, and open space areas within the City are essential to maintaining a healthy and desirable environment for residents and persons employed within the City. Further, the value and attractiveness of residential and commercial/industrial developments to landowners, developers, purchasers, employers, and employees is significantly enhanced by the presence of such parks and open space amenities.

B. New developments place a burden upon the City's parks and open space system. New park facilities must be developed concurrently with development in order to maintain the current level of service and the quality of the environment for all. Therefore, new developments shall be required to contribute toward the City's park system in rough proportion to the relative burden they will place upon the park system, in order to maintain the existing level of service to the community.

C. Residential development of land creates approximately ninety (90) percent of the need for park and recreational land and facilities within the City.

D. Commercial/industrial development of land creates approximately ten (10) percent of the need for park and recreational land and facilities within the City.

Subd. 3. The following words and terms used in this chapter shall mean:

A. **Employees.** The number of employees that are projected to work in a proposed commercial/industrial development based on full build-out of the site. This number is calculated by multiplying the maximum gross floor area (in thousands) of structural improvements that the site can support by the average projected number of employees per 1,000 square feet of floor area of the proposed type of development as follows:

Property Type	Employees/ 1000 sq. ft
Office	3
Retail	2

Industrial	1.65
Office-Warehouse	1.65
Warehouse	1

If the property type of the development is not known at the time of subdivision, the number of employees shall be calculated by using the property type which results in the highest number of employees projected to work in the proposed development, based on the uses allowed by the Zoning Ordinance.

B. Existing Park Land and Trail Acreage. The total acres of community playfields, city parks, neighborhood parks, mini-parks and school parks existing as of January 2009 is 1565.94 acres plus the land area of trails dedicated to the City as of 2008 is 10.4 acres.

C. Jobs. The number of jobs located within the city as of January 2000 is 52,753.

D. Per capita Proportional Commercial/Industrial Share. Ten (10) percent of the existing park land and trail acreage, divided by the number of jobs within the city. $[(10\% \times .003 / 52,753 = 156.5 \text{ acres or } .003 \text{ acres per employee}]$

E. Per Capita proportional Residential Share: Ninety (90) percent of the existing park land and trail acreage, divided by the City population as determined by the 2000 Decennial Census (47,425). $[90\% \times .03 / 47,425 = 1,408 \text{ acres or } .02 \text{ acres per capita}]$.

F. Property Type. The classification of the proposed type of development in the subdivision shall be determined by the City Planner to be that most similar to the proposed use based on the number of employees projected to work in the development.

G. Residents. The number of residents that are expected to reside in a proposed residential development. This number is calculated by multiplying the number of new residential units in the proposed development by the average number of residents per unit for the type of residential unit proposed, based on the Metropolitan Council's official estimates as follows:

<u>Type of Dwelling:</u>	<u>Residents per Unit</u>
Single-family home	3.1
Duplex or Townhome	2.0
Multi-family (Apartments)	1.9

H. Undeveloped Land Value. The fair market value of the land being subdivided at the time of final plat approval.

I. Buildable Land: All land except wetlands, public waters and land dedicated for streets.

Subd. 3. Dedication Required.

- A. At the time of subdivision, as defined by Minnesota State Statute 462.353, subd. 4(a), the developer shall dedicate land for public use as parks, playgrounds, recreation facilities, trails, or public open space, in an amount equal to the subdivision's proportional share of the City park system. Any land dedicated shall be in a location and of a character consistent with and suitable for meeting the needs identified by the City's Comprehensive Plan. Generally, land located within flood plains or wetlands shall not be accepted to meet the proportional share of required land dedication. The City may consider accepting ownership of these lands without giving credit for park dedication.
- B. If the City Council determines that land is not needed in the area of the proposed subdivision, the City may alternatively require payment of an equivalent amount in cash.
- C. In determining the required land dedication or cash fee due consideration shall be given to the open space, recreational, or common areas and facilities open to the public that the subdivider proposes to provide in the subdivision.
- D. If the City Council determines that land is needed in the development, but in a lesser amount than the required proportionate share, the Council may require payment of cash in lieu of land dedication based on a pro-rata share of the land dedication that otherwise would be required.
- E. The dedication requirements based on the subdivision's proportional share of the City park system are presumptively appropriate. A developer may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made to the City Council as part of an application for final plat approval.

Subd. 4. Calculation of Proportional Share.

- A. **Residential Development.** A residential development's proportional share is the per capita residential share multiplied by the number of residents expected in the development.
- B. **Commercial/Industrial Development.** A commercial or industrial development's proportional share is the per capita commercial/industrial share multiplied by the number of employees expected in the development.
- C. **Schools.** A school's proportional share is the per capita residential share multiplied by the number of students expected to attend the school who live outside of the City of Edina.

Subd. 5. Land Dedication/Payment of Fees. Dedication of land and/or payment of park dedication fees shall be as follows:

- A. **Land Dedication.** When land is to be dedicated to satisfy the park dedication requirement, separate lots or outlots shall be indicated on the plat drawings for the area(s) to be dedicated. Such lots or outlots shall be deeded to the City by warranty

deed free and clear of any encumbrances prior to the City's release of the signed final plat mylars or subdivision approval for recording with Hennepin County.

B. Presumptive Cash Fee. The presumptive cash fee for subdivision is as follows. The fee is based upon the proportional share of the park dedication requirement multiplied times presumed land values. If the Developer believes that the presumed land value or proportional share is not accurate for the subdivision, the Developer may request an individualized calculation.

Commercial	\$7,100 per buildable acre
Industrial	\$7,100 per buildable acre
Single family	\$5,000 per dwelling unit
Multi family	\$5,000 per dwelling unit
Duplex or townhome	\$5,000 per dwelling unit

C. When a cash fee is to be paid in lieu of land dedication, the payment of such fee shall be made as follows:

1. For residential developments, the fee shall be paid prior to the City's release of the signed final plat mylars or subdivision approval for recording with Hennepin County. The exception is that in the case of multiple-family residential developments where the site plan review occurs after the time of final plat approval, the fee shall be paid prior to the issuance of any building permits.

2. For commercial and industrial developments and schools, the fee shall be paid prior to release of the signed final plat mylars or subdivision approval for recording with Hennepin County. A pro-rated portion of the fee may be deferred if the subdivider proposes to construct significantly less square footage than the site supports, provided that any remaining fees shall be paid if and when additional square footage is constructed on the site in the future.

3. In plats that include outlots for future development, the subdivider may pay to the City the development's proportional share for the entire subdivision including the outlots, or the development's proportional share excluding such outlots, provided that the park dedication requirement shall be satisfied when such outlots are replatted.

Subd. 6. Exemption. Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee applies only to the net increase of lots.

Subd. 7. Dedicated Fund. Cash payments shall be placed in a dedicated fund. The fund may only be used for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

810.14 Utilities.

Subd. 1 **Underground Installation of Utilities.** All new utilities (excluding main line electric feeders and high voltage transmission lines) constructed within the confines of and providing service to customers in the plat shall be installed underground.

Subd. 2 **In Public Easements.** All electric and gas distribution lines and piping, roadways, curbs, walks and other similar improvements shall be constructed only on a street, alley or other public way or easement which is designated on a plat or subdivision approved by the Council or which has otherwise been approved by the Council.

810.15 Street Maintenance. Until a street in a plat or subdivision has been completed in accordance with the plans and specifications approved by the City, and the Engineer has certified as to such completion, the owner shall keep such street, if used for public travel, in safe condition for such use, at owner's own expense. The City shall not be chargeable with the cost of or the responsibility for the maintenance of such street until the completion of such street has been so certified.

810.16 Penalty.

Subd. 1 **Violation of M.S. 462.358, Subd. 4b.** In addition to the provisions of Subsection 100.09 of this Code, any person who conveys a lot, tract or parcel in violation of M.S. 462.358, Subd. 4b, (which is hereby incorporated herein by reference and made a part of this Code) shall forfeit and pay to the City a penalty of not less than \$100.00 for each lot, tract or parcel so conveyed. Also, the city may enjoin such conveyance, or recover such penalty, by a civil action in a court of competent jurisdiction.

History: Ord 804 adopted 12-13-89; amended by Ord 1998-5 8-26-98; Ord 2006-01, 03-06-06; Ord 2009-05, 4/21/09

Reference: M.S. 462, 505

Cross Reference: Sections 445, 850; Subsections 100.09, 850.21